

DEPARTMENT OF STATE REVENUE**LETTER OF FINDINGS NUMBER: 01-0105P****Gross and Adjusted Gross Income Tax**

Fiscal Years Ended 9/30/89, 9/30/90, 9/30/91, 9/30/92, 9/30/93, 9/30/94, 9/30/95, 9/30/96, 9/30/97, and 9/30/98

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ISSUE(S)**I. Tax Administration – Penalty**

Authority: IC 6-8.1-10.2.1

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed a negligence penalty for its failure to file tax returns for fiscal years 1989 through 1994. Taxpayer began filing income tax returns in 1995 after a sales tax audit revealed that it rented and sold tools in the state of Indiana. Taxpayer made no attempt to file returns in the previous years.

I. Tax Administration – Penalty**DISCUSSION**

Taxpayer protests the penalty assessed because it was unaware of tools being maintained in Indiana. A review by the hearing officer of taxpayer's working papers, however, found that capitalized and rented tools in Indiana were on taxpayer's own in-house listings for the years at audit.

Taxpayer's representative states it was unaware of the tools being in Indiana and its income tax filing obligation in Indiana until the taxpayer underwent a sales and use tax audit in 1995. Taxpayer has timely filed its income tax returns since 1995.

The penalty was assessed in this instance because the Taxpayer did not attempt to correct the prior filings after it was made aware of its tax obligations. Returns should have been filed for all of the audit years.

Taxpayer has not provided reasonable cause to allow a waiver of the penalty.

FINDING

Taxpayer's protest is denied.